

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-103-00243C

Parcel No. F0002-02B

Guru Nanak Food Mart, Inc.,

Appellant,

vs.

City of Davenport Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 19, 2020. Attorney Michael McCarthy represented Guru Nanak Food Mart, Inc. (Guru). City Attorney Tom Warner represented the City of Davenport Board of Review.

Guru owns a commercial property located at 405 E. Locust, Davenport, Iowa. Its January 1, 2019, assessment was set at \$1,596,470, allocated as \$566,280 in land value and \$1,030,190 in improvement value. (Ex. A).

Guru petitioned the Board of Review contending the property was assessed for more than the value authorized by law. Iowa Code §§ 441.37(1)(a)(2) (2019). The Board of Review denied the petition.

Guru then appealed to PAAB and continues to assert the property is over assessed. § 441.37(1)(a)(2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

Findings of Fact

The subject property is a 35,632 square foot commercial/retail building operated as a SAVE-MORE food mart. The building was constructed in 1990 and has been used primarily as a grocery store and rental property. It has 91,000 square feet of asphalt paving. The improvements are listed in below normal condition with a 4+10 Grade (average quality). The improvements have been physically depreciated by 44%, with an additional 20% economic obsolescence and 40% other obsolescence applied to the assessment. The site is 3.20 acres. (Ex. A).

Rasneep (Jesse) Singh, Store Manager, testified that his mother and father own the business. He had previously owned and operated convenience stores and gas stations, but his family wished to purchase property in Davenport. Singh was involved in the purchase of the subject property, and it is the first time he and his family became involved in the grocery store business. He stated he now owns two other grocery stores in Rock Island and Milan, Illinois.

Singh testified that the property was for sale with a realtor in March 2018 for approximately close to \$1,700,000. The prior owner operated the subject property as a Save-a-Lot grocery store and leased the remaining portion of the property to Dollar General. Singh offered to purchase the subject property for \$1,200,000 and eventually negotiated a final purchase price of \$1,475,000. The sale transaction closed in August 2018. (Ex. D). Singh stated he did not know the prior owner and was not provided with

financial information concerning their business. The property record card sale condition code reflects this was an arms-length transaction. (Ex. A).

After the purchase, Save-a-Lot declined to continue a relationship with Guru. Guru then affiliated with Save-More, applied for a liquor license, opened a doorway to a vacant area and added counters, flooring, and coolers to incorporate a liquor section. Singh testified these alterations cost approximately \$20,000, with \$10,000 used to purchase a cooler.

Guru submitted a financing appraisal prepared by Adam J. Hardej, Jr., of BAAR Realty Advisors. (Ex. 1). Hardej appraised the property as of July 2018. He developed both the sales comparison and income capitalization approaches to value, with conclusions by each approach of \$1,475,000 and \$1,520,000 respectively.

Hardej included five properties in his sales comparison analysis; four were closed transactions and one was a listing. The properties are summarized in the following table.

Property	Land Size (acre)	Building Size/Year Built	Date of Sale	Sale Price	Price Per Square Foot	Adjusted Price Per Square Foot
Subject	0.26	35,970 ¹ /1990	2018	\$1,475,000	\$45	NA
1 - 2333 Cumberland Square, Bettendorf	2.05	10,000/ 1976	5/2018	\$625,000	\$63	\$44
2 - 318 E 2nd St	0.22	8675/ 1945	5/2018	\$374,500	\$36	\$39
3 - 2826 W Locust	4.07	33,900/ 1985	10/2017	\$1,393,000	\$41	\$41
4 - 3514 Brady St	0.73	8568/ 1956	2/2018	\$374,000	\$44	\$44
5 - 2217 Rockingham Rd	0.38	9265/ 1961	Listing	\$433,125	\$47	\$46

¹ The property record card reports 35,642 total square feet.

Adjustments were made for market conditions, size, quality, age and condition, and floor area ratio (FAR). The adjusted range of value was \$39 to \$46 per square foot with an average of \$43. Ultimately, Hardej relied exclusively on the sales comparison approach, concluding a final opinion of value of \$1,475,000. And for this reason we do not discuss his income analysis.

Christina Conley with the City Assessor's Office, testified for the Board of Review. The Board of Review submitted a list of eleven grocery store comparables it believes show the subject property is assessed equitably. (Ex. E). The assessments range from \$44.80 per square foot for the subject to \$170.46 per square foot for a Natural Grocers built in 2016. (Ex.E). We note that none of the comparables submitted by the Board of Review have recently sold. They also range widely in age, quality, and size.

Conley testified that a Hy-Vee grocery store located on Rockingham Road had many similarities to the subject property. (Ex. E). She noted it is similar in size, and neighborhood characteristics, but is older than the subject property. It also has a higher grade than the subject. It was assessed for \$1,756,560. Singh was critical of this comparable noting Hy-Vee is the largest local food chain with superior business properties.

Because the properties the Board of Review submitted have not sold, we find them of little relevance to determine the market value of the subject.

When questioned, Conley noted she questioned some of the data contained in the Hardej appraisal, but she did not elaborate or provide documentary support for this testimony. She stated she believed Comparable 3's size was incorrectly reported and was split after the sale; additionally, she believed this property was vacant for four years. Lastly, she questioned the vacancy loss calculation used in Hardej's income approach, but she did not offer any support for what she believed would be a correct vacancy adjustment.

When asked whether the Assessor's Office considered the purchase price of the subject, in setting the 2019 assessment, Conley stated assessments were low for grocery stores, but due to the sale price of the subject, they chose to not increase its assessment from the previous two years.

Analysis & Conclusions of Law

Guru contends its assessment is for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

Under Iowa law, there is no presumption that the assessed value is correct. § 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). To shift the burden, the taxpayer must "offer[] competent evidence that the market value of the property is different than the market value determined by the assessor." Iowa Code § 441.21(3). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990).

Guru relies on the purchase price of the subject property as well as an appraisal completed contemporaneous to the sale in support of its claim.

Guru purchased the subject property in August 2018 after negotiations with the seller's realtor. There is no indication the transaction was anything but a traditional arms-length transaction and the property record card supports this belief. Guru also submitted the Hardej appraisal, which values the subject property at \$1,475,000. Hardej relied on the sales comparison approach to value, which is the preferred method for valuing property under Iowa law. *Id.* For these reasons, we conclude this evidence is sufficient to shift the burden of proof to the Board of Review.

In an effort to support the assessment, the Board of Review was critical of several comparable sales in the Hardej appraisal. However, its criticism was limited and unsupported by independent evidence. The Board of Review also submitted the assessment information of eleven area grocery stores, but acknowledged none had recently sold. This evidence is not sufficient to overcome its burden as simply comparing assessments does not prove the subject property's current assessment is correct. We conclude the Board of Review has failed to uphold its burden.

Viewing the record as a whole, we find the subject property is over assessed.

Order

PAAB HEREBY MODIFIES the City of Davenport's Board of Review's action. Based on the foregoing, we order the subject property's January 1, 2019 assessed value be set at \$1,475,000.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

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